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EXAMINER

LEUNG, JENNIFER A

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/035,788

**Applicant(s)**

PECK, BILL J.

**Examiner**

Jennifer A. Leung

**Art Unit**

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21, 40-56 and 59-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 40-56 and 59-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment submitted on August 28, 2006 has been received and carefully considered. Claims 22-39, 57 and 58 are cancelled. Claims 1-21, 40-56 and 59-62 are active.

### *Response to Arguments*

2. Applicant's arguments have been fully considered but they are not persuasive.

Comments regarding the combination of Wagener et al., Sharma et al. and Narayanswami et al. (and other secondary references).

Beginning on page 9, second to last paragraph, Applicant argues,

“... Sharma is concerned with furnaces such as a metal melting furnace...

Although the patentee indicates that the invention has many applications for providing a selected atmosphere within a contained volume, the disclosure of the reference does not extend beyond metal melting furnaces. One skilled in the art, in developing improvements on an apparatus for transferring a microelectronic device to and from a processing chamber and the use of cryogenic fluids in the process chamber such as disclosed by Wagener would not look to Sharma for relevant information.”

The Examiner respectfully disagrees. In response to Applicant's argument that Sharma et al. (who is concerned with providing a gas curtain to a furnace) is nonanalogous art to Wagener et al. (who is concerned with providing a gas curtain in a semiconductor processing chamber), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Although Sharma and Wagener utilize gas curtains in different applications, both Sharma and Wagener are concerned with the

Art Unit: 1764

same problem of providing an evenly distributed flow of gas in the form of a gas curtain.

Applicant (at page 11, beginning at the second paragraph) further argues that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning. In response to Applicant's argument, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant further argues (at page 9, last paragraph),

“... Neither of the references discloses or suggests, either individually or in combination, the feature of claim 1 where the chamber comprises a gas outlet in a wall thereof that is perpendicular to the gas inlets,”

and, it would not have been obvious to merely “shift the location of parts” to arrive at the claimed configuration of a gas outlet that was located in a wall that was perpendicular to the gas inlets. Applicant (page 12, third paragraph) asserts,

“... The aerosol nozzle in Narayanswami comprises a plurality of openings that emit aerosol in several directions... Accordingly, combining the teaching of Narayanswami with Wagener and Sharma would yield an apparatus where the gas outlets would comprise a plurality of openings oriented in all directions to produce gas flow in multiple directions. In the present claims the gas outlet is substantially perpendicular to the gas inlet so that a flow of gas is obtained that is substantially perpendicular to the wall comprising the as outlet.”

The Examiner respectfully disagrees. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some

Art Unit: 1764

teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, the Examiner maintains that the “shifting of the location of parts” is knowledge generally available to those skilled in the art. This knowledge is further evidenced by Wagener, who teaches that the diffuser location may be shifted, depending on a particular application (see column 6, lines 34-36). Please note that Narayansawmi was merely relied upon to illustrate that it is known in the art to shift the location of the gas outlet to the wall perpendicular to the gas flow device (as shown in FIGs. 3 and 4). The Examiner did not intend for a substitution of the specific nozzle of Narayanswami for the gas-dispersing device in the modified apparatus of Wagener et al. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Comments regarding the combination of Gamble et al. and Sharma et al.

Applicant (on page 22, third paragraph) argues,

“... Sharma is concerned with furnaces such as a metal melting furnace...

Although the patentee indicates that the invention has many application for provided in a selected atmosphere within a contained volume, the disclosure of the reference does not extend beyond metal melting furnaces. One skilled in the art, in developing improves on an apparatus for the chemical synthesis of molecular arrays as disclosed by Gamble, would not look to Sharma for relevant information.”

Art Unit: 1764

The Examiner respectfully disagrees. In response to Applicant's argument that Sharma et al. (who is concerned with providing an inert atmosphere to a furnace) is nonanalogous art to Gamble et al. (who is concerned with providing an inert atmosphere in an apparatus for chemical synthesis), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Although Sharma and Gamble relate to the provision of gas flow for differing applications, both Sharma and Gamble are concerned with the same problem of providing an evenly distributed flow of inert gas to their respective chambers.

Applicant (on page 22, fourth paragraph) further argues,

“... neither of the references discloses or suggests, either individually or in combination, the feature of claim 1 where the chamber comprises a gas outlet in a wall thereof that is perpendicular to the gas inlets.”

The Examiner respectfully disagrees. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, the Examiner maintains that the “shifting of the location of parts” is knowledge generally available to those skilled in the art, and thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to shift the location of the gas outlet, with respect to the gas inlets, according to the instantly claimed configuration in the

Art Unit: 1764

modified apparatus of Gamble, on the basis of suitability for the intended use.

Regarding Applicant's argument for the improper use of hindsight reasoning (at page 23, fourth paragraph), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3, 5, 7, 9, 10, 12-20 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Narayanswami et al. (US 5,810,942).

Regarding claim 1, Wagener et al. (FIG. 1; column 5, line 39 to column 7, line 64) discloses an apparatus comprising a chamber (i.e., process chamber **12**) comprising an opening (i.e., chamber valve **28**) in a wall; a device (i.e., nozzle **20**) dispensing reagents on a support (i.e., wafer **18**), at least a portion of device **20** being within chamber **12**; and a mechanism (i.e., transfer robot **50**) moving support **18** into and out of chamber **12** through opening **28** and for positioning support **18** relative to device **20**. Wagener et al. (column 9, line 22 to column 10, line 28) further discloses an element (i.e., diffuser **32**) diffusing gas within compartment **12**, wherein, "diffuser **32** is used to create... an evenly distributed flow **30** of gas, referred to as a "curtain flow" of gas," (column 9, lines 48-50). Wagener et al., however, is silent as to diffuser

Art Unit: 1764

32 comprising a manifold including at least two compartments, wherein each compartment is in fluid communication with a respective gas inlet and wherein a perforated element is in fluid communication with said manifold and substantially perpendicular to the gas inlets.

Sharma et al. (FIG. 1; column 3, line 57 to column 5, line 40) teaches an apparatus for dispersing a multi-layer fluid curtain, the apparatus comprising a manifold including at least two compartments (i.e., a dual diffuser comprising a first compartment defined by inner diffuser 16 and a second compartment defined by outer diffuser 22), wherein each of compartments 16 and 22 is in fluid communication with a respective gas inlet 18 and 24; a perforated element is in fluid communication with said manifold (i.e., each of emitting areas 20 and 26 comprising an “opening covered by a porous, permeable or perforated surface,” column 4, lines 17-33 and 47-66); and the perforated element is substantially perpendicular to the gas inlets 18 and 24 (i.e., emitting area 26 is perpendicular to inlet 24 in FIG. 1; also, emitting area 20 may be, “oriented to emit the inner layer of fluid parallel to the furnace opening 10,” thereby suggesting that the element may also be configured perpendicular to the gas inlet 18; column 4, lines 34-40).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute the apparatus for dispersing gas of Sharma et al. for the diffuser 32 in the apparatus of Wagener et al., on the basis of suitability for the intended use, because the fluid curtain as emitted by the apparatus of Sharma et al. possesses two layers that act cooperatively to stabilize the laminar flow in each layer over a longer distance, thereby extending the effective area of coverage of the layers (column 2, lines 41-50). Also, the substitution of known equivalent structures involves only ordinary skill in the art. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967);



Art Unit: 1764

*In re Ruff* 118 USPQ 343 (CCPA 1958).

In view of the newly added limitations, Wagener et al. further discloses a gas outlet (i.e., leading to vacuum pump 40; FIG. 1) in a wall of chamber 12. Wagener et al., however, is silent as to the gas outlet being located in a chamber 12 wall that is perpendicular to the gas inlets.

In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to shift the location of the gas outlet, with respect to the gas inlets, according to the instantly claimed configuration in the modified apparatus of Wagener et al., on the basis of suitability for the intended use and absent showing any unexpected results thereof, because the shifting location of parts was held to have been obvious. *In re Japikse*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950). This is evidenced by Wagener et al., who discloses that, "Diffuser 32 can be positioned in a number of location within chamber 12 as may be desired for a particular application," (column 6, lines 34-36). Wagener et al. further cites a commonly assigned U.S. Patent No. 5,810,942 to Narayanswami et al. (see column 6, lines 43-46), wherein the gas outlet (i.e., at exhaust duct 20) is positioned at a wall perpendicular to the gas flow, and hence, gas inlets (see FIG. 3, 4):

Regarding claims 2 and 3, the collective teaching of Wagener et al. and Sharma et al. is silent as to the perforated element comprising about 5 to about 200 perforation per square inch, about a 0.02 to about a 0.2 inch thickness, and perforation diameters of about 0.03 to about 0.25 inches. In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select an appropriate number of perforations, thickness, and perforation diameter for the perforated element in the modified apparatus of Wagener et al., on the basis of suitability for the intended use and absent showing any unexpected results thereof,

Art Unit: 1764

because where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, *In re Aller*, 105 USPQ 233.

Regarding claim 5, Wagener et al. discloses, “[d]iffuser **32** can be positioned in a number of locations within chamber **12** as may be desired for a particular application. In addition, diffuser **32** may be adjustably mounted within the chamber **12**.” (column 6, lines 31-37). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to locate the perforated element opposite the opening **28** in the modified apparatus of Wegner et al., on the basis of suitability for the intended use. The shifting of location of parts merely involves routine skill in the art.

Regarding claims 7 and 40, device **20** for dispensing reagents **24** is a drop dispensing device (i.e., device **20** supplies an aerosol spray; column 5, lines 39-67), and mechanism **50** moves support **18** relative to drop dispensing device **20** (column 6, line 64 to column 7, line 24). The device **20** also comprises a pulse jet device, since the device is capable of supplying a jet of cryogenic particles. In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select a known, suitable dispensing device for the device **20** in the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because “... the design of such nozzles and other devices and controlling techniques are known... Any known or developed nozzle, supply or controlling circuits and mechanisms can be utilized in accordance with the process chamber of the present invention.” (column 5, lines 58-67). The Examiner takes Official Notice that the instantly claimed dispensing devices are conventionally known in the art.

Regarding claims 9, 18 and 19, Sharma et al. teaches three or more diffusers may be

Art Unit: 1764

stacked to issue a curtain of three or more layers (column 2, lines 60-63; column 5, lines 32-35). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide at least four compartments in the modified apparatus of Wagener et al., on the basis of suitability for the intended use (e.g., for issuing a curtain of four or more layers). In addition, the duplication of part was held to have been obvious, *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960). In the case of the apparatus having at least four compartments, the apparatus would thus comprise at least four gas inlets (i.e., similar to gas inlets 18 and 24; see FIG. 1), wherein each of said gas inlets comprises a valve (i.e., similar to the means 19 and 25 for controlling the fluid flow; see FIG. 1).

Regarding claim 10, the chamber 12 of Wagener has a vertical symmetry (see FIG. 1).

Regarding claims 12 and 13, Wagener et al. (FIG. 1; column 6, line 64 to column 7, line 24) discloses a controller for controlling the movement of mechanism 50 for moving support 18 (i.e., the "robot" will comprise control means, for controlling the disclosed X-Y directional movements or Z-direction movement), wherein said mechanism 50 is a robotic arm (see FIG. 3).

Regarding claims 14 and 15, Wagener (FIG. 1-4; column 8, lines 51-65) discloses opening 28 comprises a door (i.e., closed in FIG. 2,4; open in FIG. 3), wherein the dimensions of said door are sufficient to permit ingress and egress of a mechanism 50 (see FIG. 3).

Regarding claim 16, although Wagener (FIG. 1) is silent as to the dimensions of door 28 being sufficient to permit ingress and egress of device 20, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select appropriate dimensions for said door 28 in the modified apparatus of Wagener et al., on the basis of suitability for the intended use thereof, because it has been held that changes in size involve only ordinary skill in

Art Unit: 1764

the art. *In re Rose*, 220 F.2d 459, 463, 105 USPQ 237, 240 (CCPA 1955).

Regarding claim 17, door **28** is in a wall of chamber **12** opposite to an outlet element (i.e., an opening for evacuating chamber **12** with pump **40**; column 6, lines 47-63; FIG. 1).

Regarding claim 20, it appears that the modified apparatus of Wagener structurally meets the claims, as the pressure at which the gas is introduced through the manifold is considered a process limitation, and the structural design of the gas inlets appears no different from the gas inlets as disclosed by Applicants. Thus, the gas inlets in the modified apparatus of Wagener would be inherently capable of supplying the gas at the desired pressure.

4. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Narayanswami et al. (US 5,810,942), as applied to claim 1 above, and further in view of Vogel (US 5,590,537).

The collective teaching of Wagener, Sharma and Narayanswami is silent as to the perforated element being about 0.02 to about 2 inches thick. In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select the claimed thickness for the perforated element in the modified apparatus of Wagener et al., on the basis of suitability for the intended use and absent showing any unexpected results thereof, because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, *In re Aller*, 105 USPQ 233. Also, changes in size merely involves ordinary skill in the art. In addition, the collective teaching of Wagener, Sharma and Narayanswami is silent as to the apparatus comprising a honeycomb element in fluid communication with said perforated element. Vogel (column 3, lines 20-42; FIG. 1) teaches an apparatus for dispersing a gas as a fluid curtain, said

Art Unit: 1764

apparatus comprising a honeycomb element 30. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the honeycomb element of Vogel to the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because the honeycomb element ensures that the fluid curtain flows in a laminar and parallel fashion, as taught by Vogel.

5. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Narayanswami et al. (US 5,810,942), as applied to claim 1 above, and further in view of Yamamoto (JP 63-296845).

Wagener is silent as to the walls of chamber 12 leading to the wall with opening 28 being tapered, or the angles in the interior of chamber 12 being beveled. Yamamoto (FIG. 4, third illustration) teaches a chamber comprising a tapered wall 14 leading to a wall comprising an opening 13, the tapered wall 14 defining a beveled angle. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide tapered walls or beveled angles in the chamber of the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because the tapered walls or beveled angles guide the flow of fluid from the interior of the chamber to the chamber outlet, as evidenced by Yamamoto.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Narayanswami et al. (US 5,810,942), as applied to claim 1 above, and further in view of Moriya et al. (US 4,650,698).

The collective teaching of Wagener, Sharma and Narayanswami is silent as to the gas inlets each comprising a separate T-junction, such that gas enters each of the gas inlets in a direction that is substantially normal to the direction in which gas exits the manifold. In any

Art Unit: 1764

event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide such a configuration for the gas inlets in the modified apparatus of Wagener et al., on the basis of suitability for the intended use thereof, because the provision of a T-junction at a gas inlet is conventionally known in the art of fluid distribution for enabling the supply of multiple gases to a single gas inlet, as evidenced by Moriya et al. (i.e., for the supply of a plurality of gases 3, 4, 5 and 6 via a single gas inlet; see FIG. 1).

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Narayanswami et al. (US 5,810,942), as applied to claim 1 above, and further in view of Philipossian (US 5,064,367).

The collective teaching of Wagener, Sharma and Narayanswami is silent as to each compartment comprising an element for diffusing gas within the compartment. Philipossian (FIG. 9, 10; column 5, line 5 to column 6, line 25) teaches a compartment (i.e., tube 10) comprising a diffusing element (i.e., as defined by filler 45, or insert 46). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide a diffusing element within the compartments in the modified apparatus of Wagener, on the basis of suitability for the intended use, because the diffusing elements produce a conical nozzle that supplies a gas flow at faster velocities, following the flow streamlines, and avoids or minimizes recirculating gas cells. The amount of gas used in purging a tube with this configuration is reduced, and the time need for thorough purging is also reduced,” as taught by Philipossian (Abstract).

8. Claims 41, 43, 45-48 and 50-52 rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888), Powers (US

Art Unit: 1764

5,965,048) and Moriya et al. (US 4,650,698).

Regarding claim 41, Wagener (FIG. 1; column 5, line 39 to column 7, line 64) discloses an apparatus comprising a chamber (i.e., process chamber 12) comprising an opening (i.e., chamber valve 28) in a wall; a device (i.e., nozzle 20) dispensing reagents on a support (i.e., wafer 18), at least a portion of device 20 being within chamber 12; and a mechanism (i.e., transfer robot 50) moving support 18 into and out of chamber 12 through opening 28 and positioning support 18 relative to device 20. Wagener (column 9, line 22 to column 10, line 28) further discloses an element (i.e., diffuser 32) for diffusing gas within said compartment 12, wherein the “diffuser 32 is used to create... an evenly distributed flow 30 of gas, referred to as a “curtain flow” of gas,” (column 9, lines 48-50). Wagener, however, is silent as to diffuser 32 comprising a manifold including at least two compartments, wherein each compartment is in fluid communication with a respective gas inlet, and a perforated element is in fluid communication with said manifold.

Sharma et al. (FIG. 1; column 3, line 57 to column 5, line 40) teaches an apparatus for dispersing a multi-layer fluid curtain, the apparatus comprising a manifold including at least two compartments (i.e., a dual diffuser comprising a first compartment defined by inner diffuser 16 and a second compartment defined by outer diffuser 22), wherein each of compartments 16 and 22 is in fluid communication with a respective gas inlet 18 and 24, and a perforated element is in fluid communication with said manifold (i.e., emitting areas 20 and 26 comprise an “opening covered by a porous, permeable or perforated surface,” column 4, lines 17-33 and 47-66).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute the apparatus for dispersing gas of Sharma et al. for the diffuser 32 in the

Art Unit: 1764

apparatus of Wagener et al., on the basis of suitability for the intended use, because the fluid curtain as emitted by the apparatus of Sharma et al. possesses two layers that act cooperatively to stabilize the laminar flow in each layer over a longer distance, thereby extending the effective area of coverage of the layers (column 2, lines 41-50). Also, the substitution of known equivalent structures involves only ordinary skill in the art. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *In re Ruff* 118 USPQ 343 (CCPA 1958).

The collective teachings of Wagener et al. and Sharma et al. is silent as to each gas inlet being in fluid communication with a gas inlet source that is oriented to provide gas in a direction that is substantially normal to the direction in which the gas flows through the gas inlet and enters the manifold. Powers teaches an apparatus comprising plural gas inlets (i.e., openings 64; see FIG. 5), wherein each gas inlet 64 is in fluid communication with a gas inlet source that is oriented to provide gas in a direction that is substantially normal to the direction in which the gas flows through the gas inlet and into the diffuser (i.e., via conduit 44, which directs the gas flow in a direction normal to the flow of gas through gas inlets 64; see FIG. 2). It would have been obvious for one of ordinary skill in the art at the time the invention was made to configure the gas inlets as instantly claimed because the configuration allows plural gas inlets to be fed by a single gas source, as taught by Powers.

In view of the newly added limitation, the collective teachings of Wagener, Sharma and Powers is silent as to the gas being provided from two directions, such that the gas from each direction collides and enters the gas inlet in a direction that is substantially normal to the direction in which the gas flows through the gas inlets and enters the manifold. In any event, it



Art Unit: 1764

would have been obvious for one of ordinary skill in the art at the time the invention was made to provide such a configuration for the gas inlets in the modified apparatus of Wagener et al., on the basis of suitability for the intended use thereof, because the provision of a T-junction at a gas inlet is conventionally known in the art of fluid distribution for enabling the supply of multiple gases to a single gas inlet, as evidenced by Moriya et al. (i.e., for the supply of a plurality of gases 3, 4, 5 and 6 via a single gas inlet; see FIG. 1).

Regarding claim 43, Wagener et al. discloses that, “[d]iffuser 32 can be positioned in a number of locations within chamber 12 as may be desired for a particular application. In addition, diffuser 32 may be adjustably mounted within the chamber 12.” (column 6, lines 31-37). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to locate the perforated element opposite the opening 28 in the modified apparatus of Wegner et al. on the basis of suitability for the intended use. Furthermore, it has been held that the shifting of location of parts merely involves routine skill in the art.

Regarding claims 45-47, Wagener et al. discloses said device 20 for dispensing reagents 24 is a drop dispensing device (i.e., device 20 supplies a cryogenic aerosol spray; column 5, lines 39-67), and said mechanism 50 is a mechanism for moving a support 18 relative to said drop dispensing device 20 (column 6, line 64 to column 7, line 24). The device 20 also comprises a pulse jet device, since the device is capable of supplying a jet of frozen cryogenic particles. In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select a known, suitable dispensing device for the device 20 in the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because “... the design of such nozzles and other devices and controlling techniques are known... Any known or

Art Unit: 1764

developed nozzle, supply or controlling circuits and mechanisms can be utilized in accordance with the process chamber of the present invention.” (column 5, lines 58-67). The Examiner takes Official Notice that the instantly claimed dispensing devices are conventionally known in the art.

Regarding claim 48, the chamber 12 of Wagener has a vertical symmetry (see FIG. 1).

Regarding claim 50, Wagener et al. (FIG. 1; column 6, line 64 to column 7, line 24) further discloses a controller for controlling the movement of said mechanism 50 for moving said support 18 (by definition, a “robot” will comprise some sort of control means; e.g., for controlling the disclosed X-Y directional movements or Z-direction movement), wherein said mechanism 50 is a robotic arm (see FIG. 3).

Regarding claim 51, Wagener et al. (FIG. 1-4; column 8, lines 51-65) discloses opening 28 comprises a door (i.e., door closed in FIG. 2, 4; door open in FIG. 3), wherein the dimensions of said door are sufficient to permit ingress and egress of mechanism 50 (see FIG. 3).

Regarding claim 52, Wagener discloses, “[d]iffuser 32 can be positioned in a number of locations within chamber 12 as may be desired for a particular application. In addition, diffuser 32 may be adjustably mounted within the chamber 12.” (column 6, lines 31-37). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to locate the perforated element opposite the opening 28 in the modified apparatus of Wegner. Also, the shifting of location of parts involves routine skill in the art.

9. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888), Powers (US 5,965,048) and Moriya et al. (US 4,650,698), as applied to claim 41 above, and further in view of Vogel (US 5,590,537).

The collective teaching of Wagener, Sharma, Powers and Moriya is silent as to the

Art Unit: 1764

apparatus comprising a honeycomb element in fluid communication with said perforated element. Vogel (column 3, lines 20-42; FIG. 1) teaches an apparatus for dispersing a fluid curtain, comprising a honeycomb element **30**. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the honeycomb element of Vogel to the modified apparatus of Wagener, on the basis of suitability for the intended use, because the honeycomb element ensures that the fluid curtain flows in a laminar and parallel fashion, as taught by Vogel.

10. Claims 44 and 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888), Powers (US 5,965,048) and Moriya et al. (US 4,650,698), as applied to claims 41 and 43 above, and further in view of Yamamoto (JP 63-296845).

Wagener is silent as to the walls of chamber **12** leading to opening **28** being tapered, or the angles in the interior being beveled. Yamamoto (FIG. 4, third illustration) teaches a chamber comprising a tapered wall **14** leading to a wall comprising an opening **13**, the tapered wall **14** defining a beveled angle in the interior of said chamber. It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide tapered walls or beveled angles in the chamber of the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because the tapered walls or beveled angles would help guide the flow of fluid from the interior of the chamber to the chamber outlet, as evidenced by Yamamoto.

11. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888), Powers (US 5,965,048) and Moriya et al. (US 4,650,698), as applied above, and further in view of Philipossian (US 5,064,367).

Art Unit: 1764

The collective teaching of Wagener, Sharma, Powers and Moriya is silent as to each compartment comprising an element for diffusing gas within the compartment. Philipossian (FIG. 9, 10; column 5, line 5 to column 6, line 25) teaches a compartment (i.e., tube 10) comprising a diffusing element (i.e., defined by filler 45, or insert 46). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide a diffusing element within the compartments in the modified apparatus of Wagener, on the basis of suitability for the intended use, because the diffusing elements produce a conical nozzle that supplies a gas flow at faster velocities, following the flow streamlines, and avoids or minimizes recirculating gas cells. The amount of gas used in purging a tube with this configuration is reduced, and the time need for thorough purging is also reduced,” as taught by Philipossian (Abstract).

12. Claims 54, 55 and 59-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Philipossian (US 5,064,367).

Regarding claim 54, Wagener FIG. 1; column 5, line 39 to column 7, line 64) discloses an apparatus comprising a chamber (i.e., process chamber 12) comprising an opening (i.e., chamber valve 28) in a wall; a device (i.e., nozzle 20) dispensing reagents on a support (i.e., wafer 18), at least a portion of device 20 being within chamber 12; and a mechanism (i.e., transfer robot 50) moving support 18 into and out of chamber 12 through opening 28 and positioning support 18 relative to device 20. Wagener (column 9, line 22 to column 10, line 28) further discloses an element (i.e., diffuser 32) for diffusing gas within said compartment 12, wherein the “diffuser 32 is used to create... an evenly distributed flow 30 of gas, referred to as a

Art Unit: 1764

“curtain flow” of gas,” (column 9, lines 48-50).

Wagener is silent as to diffuser 32 comprising a manifold including at least two compartments, wherein each compartment is in fluid communication with a respective gas inlet, and wherein a perforated element is in fluid communication with said manifold. Sharma (FIG. 1; column 3, line 57 to column 5, line 40) teaches an apparatus for dispersing a fluid curtain, the apparatus comprising a manifold including at least two compartments (i.e., a dual diffuser comprising a first compartment defined by inner diffuser 16 and a second compartment defined by outer diffuser 22), wherein each of compartments 16 and 22 is in fluid communication with a respective gas inlet 18 and 24, and a perforated element is in fluid communication with said manifold (i.e., emitting areas 20 and 26 comprising an “opening covered by a porous, permeable or perforated surface,” column 4, lines 17-33 and 47-66). It would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute the apparatus for dispersing gas of Sharma for the diffuser 32 in the apparatus of Wagener et al., on the basis of suitability for the intended use, because the fluid curtain as emitted by the apparatus of Sharma et al. possesses two layers that act cooperatively to stabilize the laminar flow in each layer over a longer distance, thereby extending the effective area of coverage of the layers (column 2, lines 41-50). Also, the substitution of known equivalent structures involves only ordinary skill in the art. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *In re Ruff* 118 USPQ 343 (CCPA 1958).

The collective teaching of Wagener et al. and Sharma et al. is silent as to each of said compartments comprising raised surfaces within the compartments. Philipossian (FIG. 9, 10; column 5, line 5 to column 6, line 25) teaches a compartment (i.e., tube 10) comprising raised

Art Unit: 1764

surfaces (i.e., as defined by filler **45**, or insert **46**). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide raised surfaces within the compartments in the modified apparatus of Wagener, on the basis of suitability for the intended use, because the raised surfaces produce a conical nozzle that supplies a gas flow at faster velocities, following the flow streamlines, and avoids or minimizes recirculating gas cells. The amount of gas used in purging a tube with this configuration is reduced, and the time need for thorough purging is also reduced,” as taught by Philipossian (Abstract).

In view of the newly added limitation, the modified apparatus of Wagener et al. structurally meets the claim of a “pulse jet device”, given that the device comprises a jet impingement nozzle **20** capable of being controlled to emit a jet of frozen cryogenic particles (see column 5, lines 43-67). Operation of the nozzle **20** in a pulsing manner is considered a process limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding claim 55, the chamber **12** has vertical symmetry (see FIG).

Regarding claims 59, the device **20** comprises a plurality of nozzles (i.e., a plurality of orifices, not shown; see column 5, lines 45-47).

Regarding claim 60, Wagener et al. (FIG. 1; column 6, line 64 to column 7, line 24) further discloses a controller for controlling the movement of said mechanism **50** for moving said support **18** (by definition, a “robot” will comprise some sort of control means; e.g., for controlling the disclosed X-Y directional movements or Z-direction movement), wherein said

Art Unit: 1764

mechanism **50** is a robotic arm (see FIG. 3).

Regarding claim 61, Wagener et al. discloses that, “[d]iffuser **32** can be positioned in a number of locations within chamber **12** as may be desired for a particular application. In addition, diffuser **32** may be adjustably mounted within the chamber **12**.” (column 6, lines 31-37). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to locate the perforated element opposite the opening **28** in the modified apparatus of Wegner et al. on the basis of suitability for the intended use. Furthermore, it has been held that the shifting of location of parts merely involves routine skill in the art.

Regarding claim 62, Sharma et al. teaches that three or more diffusers may be stacked to issue a curtain of three or more layers (column 2, lines 60-63; column 5, lines 32-35). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was made to provide at least four compartments to the manifold in the modified apparatus of Wagener et al., on the basis of suitability for the intended use (e.g., for issuing a curtain of four or more layers). In addition, the duplication of part was held to have been obvious. *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960).

13. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagener et al. (US 6,251,195) in view of Sharma et al. (US 5,195,888) and Philipossian (US 5,064,367), as applied to claim 54 above, and further in view of Vogel (US 5,590,537).

The collective teachings of Wagener, Sharma and Philipossian is silent as to the apparatus comprising a flow-straightening element in fluid communication with the perforated element. Vogel (column 3, lines 20-42; FIG. 1) teaches an apparatus for dispersing a gas as a fluid curtain, said apparatus comprising a flow-straightening element (i.e., honeycomb element

Art Unit: 1764

30). It would have been obvious for one of ordinary skill in the art at the time the invention was made to provide the flow-straightening element of Vogel to the modified apparatus of Wagener et al., on the basis of suitability for the intended use, because the honeycomb element ensures that the fluid curtain flows in a laminar and parallel fashion, as taught by Vogel.

14. Claims 1-3, 5, 7, 9, 10, 12, 13, 18-20 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gamble et al. (US 5,981,733) in view of Sharma et al. (US 5,195,888).

Regarding claim 1, Gamble (FIG. 9, 10, 14; column 8, line 34 to column 10, line 37; column 11, line 62 to column 13, line 63) discloses an apparatus comprising a chamber (i.e., second section **104**; FIG. 9) in fluid communication with a gas outlet port **194**; chamber **104** comprising an opening in a wall thereof (i.e., slot **140**; FIG. 10); a device for dispensing reagents (i.e., system **24**, with jetting device **46**; FIG. 9, 10), at least a portion of said device **46** being within chamber **104**; and a mechanism (i.e., positioning system **30**, with rotational support rod **106**; column 8, lines 52-59) for moving a support (i.e., substrate **20**) into and out of said chamber **104** through said opening **140** and for positioning the support **20** relative to said device for dispensing reagents **24**. Gamble is silent as to outlet port **194** comprising a manifold including at least two compartments, wherein each of said compartments is in fluid communication with a respective gas inlet, wherein a perforated element in fluid communication with said manifold, and wherein said perforated element is substantially perpendicular to the gas inlets.

Sharma (FIG. 1; column 3, line 57 to column 5, line 40) teaches an apparatus dispersing a multi-layer fluid curtain, the apparatus comprising a manifold including two compartments (i.e., a dual diffuser comprising a first compartment defined by inner diffuser **16** and a second compartment defined by outer diffuser **22**), wherein each of compartments **16** and **22** is in fluid



Art Unit: 1764

communication with a respective gas inlet **18** and **24**, and wherein a perforated element is in fluid communication with said manifold (i.e., emitting areas **20** and **26** comprising an “opening covered by a porous, permeable or perforated surface,” column 4, lines 17-33 and 47-66) and substantially perpendicular to the gas inlets **18** and **24** (i.e., emitting area **26** and its corresponding perforated element is perpendicular to inlet **24** in FIG. 1; also, emitting area **20** and its corresponding perforated element may be, “oriented to emit the inner layer of fluid parallel to the furnace opening **10**,” thereby suggesting that the perforated element may be configured perpendicular to the gas inlet **18**; column 4, lines 34-40).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute the apparatus for dispersing gas of Sharma for gas outlet port **194** in the apparatus of Gamble, on the basis of suitability for the intended use, because the fluid curtain as emitted by the apparatus of Sharma possesses two layers that act cooperatively to stabilize the laminar flow in each layer over a longer distance, thereby extending the effective area of coverage of the layers (column 2, lines 41-50). Also, substitution of known equivalent structures involves only ordinary skill in the art. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *In re Ruff* 118 USPQ 343 (CCPA 1958).

In view of the newly added limitation, Gamble discloses a gas outlet (i.e., an exit port **196** to the atmosphere; FIG. 14) in a wall of the chamber **104**. Gamble, however, is silent as to the gas outlet **196** being located in a chamber wall that is perpendicular to the gas inlets (i.e., gas from dry gas port **194** enters through opening **140** in the wall of the chamber). In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made

Art Unit: 1764

to shift the location of the gas outlet, with respect to the gas inlets, according to the instantly claimed configuration in the modified apparatus of Gamble, on the basis of suitability for the intended use, because the shifting location of parts was held to have been obvious. *In re Japikse*, 181 F.2d 1019, 1023, 86 USPQ 70, 73 (CCPA 1950).

Regarding claims 2 and 3, the collective teaching of Gamble and Sharma is silent as to the perforated element comprising about 5 to about 200 perforation per square inch, about a 0.02 to about a 0.2 inch thickness, and perforation diameters of about 0.03 to about 0.25 inches. In any event, it would have been obvious for one of ordinary skill in the art at the time the invention was made to select an appropriate number of perforations per square inch, thickness, and perforation diameter for the perforated element in the modified apparatus of Gamble, on the basis of suitability for the intended use and absent showing any unexpected results thereof, because where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, *In re Aller*, 105 USPQ 233.

Regarding claim 5, in the modified apparatus, opening 140 is in a wall of said chamber 104 opposite to the perforated element (i.e., located at the dry gas outlet port 194).

Regarding claims 7 and 40, Gamble discloses a drop dispensing device (i.e., system 24 for dispensing spots of reagent; column 3, lines 35-43), and said mechanism (i.e., positioning system 30, with rotational support rod 106; column 8, lines 52-59) is a mechanism for moving a support 20 relative to said device 24 (column 2, lines 14-16; column 4, lines 40-46).

Regarding claims 9, 18 and 19, Sharma teaches that three or more diffusers may be stacked to issue a curtain of three or more layers (column 2, lines 60-63; column 5, lines 32-35). Thus, it would have been obvious for one of ordinary skill in the art at the time the invention was

Art Unit: 1764

made to provide at least four compartments to the manifold in the modified apparatus of Gamble, on the basis of suitability for the intended use (e.g., for issuing a curtain of four or more layers). In addition, the duplication of part was held to have been obvious. *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960). In the case of the apparatus having at least four compartments, the apparatus would thus comprise at least four gas inlets (i.e., similar to gas inlets **18** and **24**; see FIG. 1), wherein each of said gas inlets comprises a valve (i.e., similar to the means **19** and **25** for controlling the fluid flow; see FIG. 1).

Regarding claim 10, Gamble discloses said chamber **104** has vertical symmetry (i.e., being that the chamber **104** comprises a square cross-section; see FIG. 9, 10).

Regarding claims 12 and 13, Gamble discloses a controller for controlling the movement of said mechanism for moving said support **20** (i.e., positioning system **30** comprises an X-Y stepper stage **108** and a rotational stepper **110**, driven by stepping motors **112a** and **112b**; column 8, line 52 to column 9, line 34; FIG. 9), wherein said mechanism is a robotic arm (i.e., the rotating support rod **106**, with substrate holder **22**).

Regarding claim 20, it appears that the modified apparatus of Gamble structurally meets the claims, as the pressure at which the gas is introduced through the manifold is considered a process limitation, and the structural design of the gas inlets appears no different from the gas inlets as disclosed by Applicants. Thus, the gas inlets in the modified apparatus of Gamble would be inherently capable of supplying the gas at the desired pressures.

### ***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1764

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


\* \* \*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Leung whose telephone number is (571) 272-1449. The examiner can normally be reached on 9:30 am - 5:30 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn A. Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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November 3, 2006 

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